

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER S. YOUST,	:	
Plaintiff,	:	
	:	
v.	:	No. 20-cv-3287
	:	
OFFICER ERIC LUKACS, <i>et al.</i>,	:	
Defendants.	:	

ORDER

AND NOW, this 20th day of July, 2021, upon consideration of Plaintiff Christopher S. Youst’s Amended Complaint (ECF No. 11), Petition to Amend (ECF No. 13); and his proposed Second Amended Complaint (ECF No. 13-1 at 1-20), it is **ORDERED** that:

1. Youst’s Petition to Amend (ECF No. 13) is **GRANTED**.
2. The proposed Second Amended Complaint (ECF No. 13-1 at 1-20) is **DEEMED** filed.
3. The Clerk of Court is **DIRECTED** to **DOCKET** the Second Amended Complaint (ECF No. 13-1 at 1-20) as a new and separate docket entry entitled “Second Amended Complaint” after the entry of this Order. The Second Amended Complaint is the operative pleading in this case.
4. The Clerk of Court is **DIRECTED** to **DOCKET** Youst’s “Application for Appointment of Counsel” (ECF No. 13-1 at 21) as a new and separate docket entry entitled “Application for Appointment of Counsel” after the entry of the Second Amended Complaint.
5. For the reasons stated in the Court’s Memorandum, Youst’s Second Amended Complaint is **DISMISSED** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as follows:

a) Youst's claims against the City of Lancaster and all official capacity claims are **DISMISSED WITH PREJUDICE**;

b) Youst's claims related to his May 18, 2018 arrest and prosecution for the charges from his April 26, 2018 car accident and his subsequent imprisonment are **DISMISSED WITHOUT PREJUDICE**. This dismissal is without prejudice to Youst's ability to file a new case only in the event his underlying conviction is reversed, vacated, or otherwise invalidated.

6. The Clerk of Court is **DIRECTED** to **CORRECT** the caption in this matter to reflect that the remaining Defendants are Officer Eric Lukacs and Michael Deitz. The Clerk of Court is **DIRECTED** to **TERMINATE** Lt. James Smith, Sgt. Roberto Lopez, and Officer Ryan Yoder, and the City of Lancaster as Defendants in this action.

7. Youst's Second Amended Complaint shall **PROCEED** with respect to his Fourth Amendment false arrest and excessive force claims arising from his encounter with police on May 16, 2018 against Defendant Officer Eric Lukacs and Defendant Officer Michael Deitz in their individual capacities. To the extent Youst brings these claims under the Fifth, Eighth, or Fourteenth Amendments, those claims are **DISMISSED WITH PREJUDICE**.

8. The Clerk of Court shall issue summonses for Officers Lukacs and Deitz. Service of the summonses and the Second Amended Complaint, along with a copy of this Order and its accompanying Memorandum, shall be made upon Defendants Officers Lukacs and Deitz by the U.S. Marshals Service. Youst will be required to complete USM-285 forms so that the Marshals can serve the Defendants. Failure to complete those forms may result in dismissal of this case.

9. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be

served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

“I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

(Signature)”

10. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and Local Rules are to be followed. Youst is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal.

11. Youst is specifically directed to comply with Local Rule 26.1(f) which provides that “[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.” Youst shall attempt to resolve any discovery disputes by contacting Defendants’ counsel directly by telephone or through correspondence.

12. No direct communication is to take place with the United States District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk of Court.

13. In the event a summons is returned unexecuted, it is Youst's responsibility to ask the Clerk of Court to issue an alias summons and to provide the Clerk with the Defendant's correct address, so service can be made.

14. The parties should notify the Clerk's Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties' legal rights.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.
United States District Judge